

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

August 28, 2014

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SAMPLE LETTER SENT TO TRIBES

AUG 29 2014

Federal Communications Commission
Office of the Secretary

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**RE: FCC Proposed Changes to Historic Preservation Rules for
Wireless Infrastructure, WT Docket No. 13-238**

Dear [Title and Name]:

On behalf of the Federal Communications Commission Wireless Infrastructure Team, we extend respectful greetings to you. The Wireless Infrastructure Team is comprised of senior staff and managers from Bureaus and Offices throughout the FCC, and includes the FCC's Office of Native Affairs and Policy and the Wireless Telecommunications Bureau. We are sending this letter to all Tribal leaders as recorded in our records as well as the FCC's cultural preservation contacts at each Tribal Nation and Native Hawaiian organization.

The FCC is considering targeted changes to improve our process for reviewing the effects of certain wireless deployments on historic properties under Section 106 of the National Historic Preservation Act (NHPA). Specifically, these changes would affect the review of Distributed Antenna Systems (DAS) and similar "small cell" antenna systems that are a fraction of the size of the equipment the rules were originally designed to cover. Due to technological advances, wireless communications providers can increasingly use these small antennas mounted on a variety of structures such as utility poles and buildings to meet growing capacity needs, and in many settings, these systems can achieve the same kind of coverage as traditional antennas (or even improved coverage) but without comparable impacts or costs. We believe a narrow revision of our process in connection with these facilities will help to facilitate a rapid increase in wireless broadband and voice coverage across the country while preserving review for installations that may affect historic properties, including properties of Tribal cultural or religious importance.

We are reaching out to you – and to other Tribal Nations and Native Hawaiian organizations – to invite your views on these anticipated narrow changes and to open a dialogue with you about them.

The revisions will conclude a rulemaking process that began in September 2013, when the Commission issued a Notice of Proposed Rulemaking seeking public comment on, among other things, ways to make the Section 106 process more effective and efficient in the context of DAS and small cell installations.¹ The Commission's rules currently require Section 106 review

¹ See In the Matter of Acceleration of Broadband Deployment By Improving Wireless Facilities Siting Policies, WT Docket No. 13-238, *Notice of Proposed Rulemaking*, 28 FCC Rcd 14238, FCC 13-122 (2013). You can find the

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before any antenna is installed on a building or other structure (other than an existing tower) if the building or structure is in or near a historic district, is listed as a historic property (or is eligible for listing), or is over 45 years old. In other words, Section 106 review is required without reference to the size (and corresponding impact) of the installation in question, even as applied to innovative small cell systems that did not exist when the rules were drafted. The rule changes that the Commission is considering would recognize these technological advances and exclude certain additional installations from Section 106 review depending on the location and the size of the equipment at issue and the need for any new excavation. We emphasize that these changes are targeted only at installations that the Commission determines would have no potential to affect historic properties, including properties of religious and cultural importance to a Tribal Nation or Native Hawaiian organization. In doing so, they will help to focus the limited resources of Historic Preservation Offices, Tribal Nations, and Native Hawaiian organizations, on those deployments that may have an effect on historic properties, and will facilitate rapid broadband deployment across the country.

We invite you to share your values and thoughts regarding these changes to the FCC's rules. We recognize that you have unique knowledge of your ancestral territories and the other areas to which your Tribal Nation or Native Hawaiian organization attaches religious and cultural significance. While we are not able to predict when the Commission will take action on these rules, we expect a decision before the end of this year.

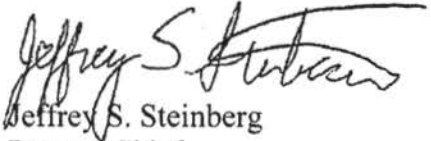
In addition to these near-term efficiency measures, the FCC is developing proposals that would more broadly modify our Section 106 review procedures in the unique context of DAS and small cell deployments. These additional measures may take the form of a program alternative under the rules of the Advisory Council on Historic Preservation. We will contact you with more detail about the possible measures that we are considering, and to initiate government-to-government consultation with Tribal Nations, as soon as our thinking is more fully developed.

As your cultural preservation officials have previously been informed, the FCC will be conducting a full-day workshop at the annual meeting of the National Association of Tribal Historic Preservation Officers in Milwaukee on September 8, 2014, as well as a breakout session on September 9. In an effort to benefit from your vital insights soon, we will include discussion of our anticipated rule changes affecting DAS and small cell review as a prominent part of these meetings. We welcome this opportunity to discuss these anticipated rules with you or your representative face to face. We also expect to have other opportunities to meet with gatherings of Tribal Nation representatives during the coming months.

In addition to meeting with you at the NATHPO conference and future events, we invite you to contact us by telephone or in writing. Please contact any of the undersigned or Infrastructure Team members Steve DelSordo, FCC Federal Preservation Officer (stephen.delsordo@fcc.gov; (202) 418-1986), or Anne Marie Wypijewski, Senior Attorney, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau (annemarie.wypijewski@fcc.gov; (717) 338-2508), to provide us with any suggestions, comments, or concerns. Consistent with the Commission's *ex parte* rules, your written

comments and summaries of any oral comments must be filed in WT Docket No. 13-238 using the Commission's Electronic Comment Filing System (ECFS) [<http://apps.fcc.gov/ecfs/>]. If you need assistance in using ECFS, please contact Maira Delao (maira.delao@fcc.gov; (202) 418-7171).

With great thanks and respect,



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